

**Senate Bill No. 1674**

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Passed the Senate August 31, 2006

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*Secretary of the Senate*

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Passed the Assembly August 29, 2006

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*Chief Clerk of the Assembly*

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This bill was received by the Governor this \_\_\_\_\_ day  
of \_\_\_\_\_, 2006, at \_\_\_\_\_ o'clock \_\_\_\_M.

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*Private Secretary of the Governor*

## CHAPTER \_\_\_\_\_

An act to amend Sections 41350, 49430.5, 49531, and 49536 of, and to add Section 49437 to, the Education Code, relating to school meals, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

## LEGISLATIVE COUNSEL'S DIGEST

SB 1674, Murray. Public schools: meal reimbursement.

(1) Existing law requires the Superintendent of Public Instruction to make allowances for child nutrition to child nutrition entities, as defined, based on reimbursement rates for free and reduced-price meals and to school districts and county superintendents of schools for the differences between the current fiscal year average statewide cost for all free and reduced-price meals and the total income per meal, as specified.

Existing law permits any child nutrition entity to apply to the State Department of Education for all available federal and state funds so that a nutritionally adequate breakfast or lunch, or both, may be provided to pupils each schoolday at each school in the districts or maintained by the county superintendents of schools, or at private schools and parochial schools and to children receiving child development services. Existing law limits state reimbursement to meals provided to pupils who are within the relevant definitions and criteria in federal statutes and regulations that prescribe eligibility for free and reduced-price meals.

Existing law requires the department, prior to July 1 each year, to prescribe an adjustment in the established state meal contribution rates based on the specified cost-of-living adjustment.

Existing law sets the per meal reimbursement rate received by elementary, middle, and high schools for free and reduced-price meals at 21¢. Existing law requires schools to follow specified state and federal guidelines in order to qualify for reimbursement. Existing law requires that the reimbursement rates be adjusted annually for cost of living increases, as specified.

This bill would, commencing with the 2006–07 fiscal year, extend that reimbursement rate for free and reduced-price meals to specified child development programs, instead of only schools. The bill would require schools and specified child development programs to follow specified state and federal nutrition guidelines and other specified requirements in order to receive the 21¢ reimbursement. The bill would require the educational entity seeking the reimbursement to comply with certain meal pattern or menu planning requirements, as specified, in order to receive the 21¢ reimbursement for the 2006–07 fiscal year. The bill would require, beginning July 1, 2007, the educational entity seeking the reimbursement to provide the department with a self-certification of compliance by schools and child developments programs with a requirement commencing July 1, 2007, not to sell or serve any food item, the final preparation method for which, prior to serving, requires the item to be deep fried, as defined, in order to continue to be eligible for the 21¢ reimbursement during the 2007–08 fiscal year and thereafter.

The bill would specify 15.63¢ as the reimbursement rate for schools and specified child development programs that do not meet the specified requirements for the 21¢ reimbursement. The bill would eliminate the requirement that the adjustments to the default reimbursement rate reflect the changes in the cost of operating a school breakfast and lunch program, rather than only the standard cost-of-living adjustment, and be made, rather than only prescribed, beginning July 1 of each year.

(2) The bill would appropriate \$37,800,000 from the General Fund to the Superintendent for transfer to Section A of the State School Fund in augmentation of the amount appropriated in a specified item of the Budget Act of 2006 for purposes of certain child nutrition programs. The bill would provide that, for purposes of satisfying the minimum annual funding obligation for school districts and community college districts required under the California Constitution, those funds are General Fund revenues appropriated for school districts and community college districts for the 2006–07 fiscal year.

(3) This bill would declare that it is to take effect immediately as an urgency statute.

Appropriation: yes.

*The people of the State of California do enact as follows:*

SECTION 1. Section 41350 of the Education Code is amended to read:

41350. The Superintendent shall make allowances for child nutrition as follows:

(a) Reimbursement of child nutrition entities, as defined by Section 49530.5, and other educational entities specified pursuant to Section 49430.5 for all free, and reduced-price meals, pursuant to Sections 49430.5 and 49536.

(b) Reimbursement of school districts and county superintendents of schools for the difference between the current fiscal year average statewide lunch or breakfast cost for all free and reduced-price meals required by Section 49550 as determined by the Superintendent and the combined total income per meal derived from pupil charges, federal funds, and state funds as provided in Article 11 (commencing with Section 49550) of Chapter 9 of Part 27.

(c) The combined state and federal reimbursements shall not exceed the current fiscal year average statewide lunch or breakfast cost. If the combined pupil charges, state reimbursements, and federal reimbursements exceed the current average statewide lunch or breakfast costs, the federal funds shall be expended prior to the expenditure of any state funds.

SEC. 2. Section 49430.5 of the Education Code is amended to read:

49430.5. (a) Beginning with the 2006–07 fiscal year, the reimbursement rate shall be twenty-one cents (\$0.21) for a school or child development program operated pursuant to Chapter 2 (commencing with Section 8200) of Part 6 that sold or served free and reduced-price meals within a school district, charter school, community college district, or county office of education and that meets the requirements of subdivision (b) or (c). Any school or child development program that does not meet the requirements of subdivision (b) or (c) shall receive the reimbursement rate provided pursuant to Section 49536.

(b) In order to qualify to receive the reimbursement increase pursuant to subdivision (a), a school specified in subdivision (a) shall satisfy both of the following:

(1) Follow the United States Department of Agriculture (USDA) nutritional guidelines through the use of any of the following:

(A) The Traditional Food-Based Menu Planning Approach, Enhanced Food-Based Menu Planning Approach, or Nutrient Standard Menu Planning Approach, developed by the USDA.

(B) Any USDA-approved Alternate Menu Planning Approach (Any Reasonable Approach), which includes California's Shaping Health as Partners in Education (SHAPE) menu patterns, as approved by the State Department of Education.

(C) Any other USDA-approved meal pattern or menu planning.

(2) Commencing July 1, 2007, not sell or serve any food item, the final preparation method for which, prior to serving, requires the item to be deep fried.

(c) In order to qualify to receive the reimbursement increase pursuant to subdivision (a), a child development program specified in subdivision (a) shall satisfy both of the following:

(1) Meet developmentally and programmatically appropriate meal pattern or meal planning requirements developed by the USDA.

(2) Commencing July 1, 2007, not sell or serve any food item, the final preparation method for which, prior to serving, requires the item to be deep fried.

(d) A school district, charter school, county office of education, or child development program defined in subdivision (a) shall comply with paragraph (1) of subdivision (b) in order to receive the reimbursement specified in subdivision (a) for the 2006–07 fiscal year. A school or child development program specified in subdivision (a) is eligible to receive the reimbursement increase specified in subdivision (a) for free and reduced-price meals sold or served within a school district, charter school, community college district, or county office of education during the time period between July 1, 2006, and the date upon which Senate Bill 1674 of the 2005–06 Regular Session becomes effective.

(e) Beginning July 1, 2007, in order to be eligible to receive the reimbursement specified in subdivision (a), a school district, charter school, county office of education, or child development program specified in subdivision (a) shall provide the department

with a self-certification of compliance with paragraph (2) of subdivision (b) or paragraph (2) of subdivision (c) as part of the annual renewal process of the State Department of Education.

(f) The reimbursement rates set forth in this section shall be adjusted annually for increases in cost of living in the same manner set forth in Section 42238.1.

(g) A school or child development program specified in subdivision (a) may apply for the reimbursement provided by this section and any other reimbursements provided by this code.

SEC. 3. Section 49437 is added to the Education Code, to read:

49437. For purposes of this article, “deep fried” means any food item that is cooked by total submersion in oil or fat.

SEC. 4. Section 49531 of the Education Code is amended to read:

49531. (a) Any child nutrition entity or other educational entity specified in Section 49430.5, may apply to the State Department of Education for all available and applicable federal and state funds so that a nutritionally adequate breakfast or lunch, or both, may be provided to pupils each schoolday at each school in the districts or maintained by the county superintendents of schools, or at private schools and parochial schools, and to children receiving child development services. The state board shall adopt rules and regulations for the operation of lunch and breakfast programs in school districts. A child nutrition entity that receives state funds pursuant to this article shall provide breakfasts and lunches in accordance with state and federal guidelines.

(b) A nutritionally adequate breakfast, for purposes of this article, is one that qualifies for reimbursement under the federal child nutrition program regulations, meets a minimum of one-fourth of the current Recommended Dietary Allowance established by the National Research Council, and incorporates the current United States Dietary Guidelines for Americans. A nutritionally adequate lunch is one that qualifies for reimbursement under the federal child nutrition program regulations, meets one-third of the Recommended Dietary Allowance established by the National Research Council, and incorporates the current United States Dietary Guidelines for Americans.

(c) State reimbursement for free and reduced-price meals provided pursuant to this article or Section 49430.5 shall be limited to meals provided to pupils who are within the relevant definitions and criteria in federal statutes and regulations that prescribe eligibility for free and reduced-price meals.

SEC. 5. Section 49536 of the Education Code is amended to read:

49536. (a) The State Department of Education shall, prior to July 1 of each year, prescribe an adjustment in the state meal contribution rates established pursuant to this section for the forthcoming fiscal year.

(b) Beginning with the 2006–07 fiscal year, the reimbursement rates established pursuant to this section shall be fifteen and sixty-three hundredths cents (\$0.1563) for free and reduced-price meals provided pursuant to this article. The reimbursement rates set forth in this section shall be adjusted annually for increases in the cost of living in the same manner as set forth in Section 42238.1.

SEC. 6. (a) The sum of thirty-seven million eight hundred thousand dollars (\$37,800,000) is hereby appropriated from the General Fund to the Superintendent of Public Instruction for transfer to Section A of the State School Fund in augmentation of the amount appropriated in Schedule (1) of Item 6110-203-0001 of Section 2.00 of the Budget Act of 2006.

(b) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation made by subdivision (a) shall be deemed to be “General Fund revenues appropriated for school districts,” as defined in subdivision (c) of Section 41202 of the Education Code, and “General Fund revenues appropriated for community college districts,” as defined in subdivision (d) of Section 41202 of the Education Code, for the 2006–07 fiscal year, and included within the “total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B,” as defined in subdivision (e) of Section 41202 of the Education Code, for the 2006–07 fiscal year.

SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety

within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide the increased reimbursement rate for school meals to schools in a timely manner, it is necessary that this act take effect immediately.















Approved \_\_\_\_\_, 2006

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*Governor*